

EXHIBIT

“A”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
SABINA PARADIA, Judicially Declared :
Incapacitated Person, By the Guardians of :
her Person and Property, BODO PARADY and :
MARY MOORE,

Plaintiffs,

JDB

-against-

MICHAEL R. PHILIPS,

Defendant.

-----x
DEPOSITION of the Plaintiff, MARY
MICHELLE MOORE, taken by the Defendant, pursuant
to Notice, held at the offices of DeCaro &
Kaplen, 20 Vesey Street, New York, New York, on
August 23, 2007, at 9:30 a.m., before a Notary
Public of the State of New York.

BARRISTER REPORTING SERVICE, INC.

120 Broadway

New York, N.Y. 10271

212-732-8066

1

2 A P P E A R A N C E S :

3 DeCARO & KAPLEN

Attorneys for Plaintiffs

4 20 Vesey Street

5 New York, New York 10007

6

7 BY: MICHAEL V. KAPLEN, ESQ.

8

9

JAMES D. BUTLER, P.A.

10 Attorney for Defendant

11 591 Summit Avenue

12 Jersey City, New Jersey 07306

13 BY: JAMES D. BUTLER, ESQ.

14

15 XXXXX

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2 MR. KAPLEN: We put a similar
3 statement on the record several days
4 ago when we took the deposition of the
5 Defendant in this case.

6 For the record, Mr. Butler has
7 been informed that Sabina Paradia
8 passed away June 30, 2007, and we're
9 in the process of having an estate
10 appointed for her, and Mr. Butler and
11 myself agreed notwithstanding that
12 there is no estate representation yet
13 appointed by the Court, we will go
14 forward with the deposition discovery
15 in this case as if an estate had been
16 set up.

17 MR. BUTLER: Correct.

18

19 M A R Y M I C H E L L E M O O R E,
20 having been first duly sworn before a
21 Notary Public of the State of New
22 York, was examined and testified as
23 follows:

24

25

1 Moore

2 Q. Do you recall who any of those mentors
3 were?

4 A. They changed every two weeks, so no.

5 Q. Did you ever meet any of them?

6 A. No, although I did meet two heads of
7 the program. Elaine -- my husband may
8 remember the last name. I met the two heads
9 of the program.

10 Q. One at Presbyterian and one at New
11 York?

12 A. I believe they worked as a team to
13 cover both hospitals. I don't recall.

14 Q. Approximately how many people were in
15 that nutrition internship?

16 A. I don't know. I would think no more
17 than 20 but I don't know.

18 Q. That internship lasted from January to
19 June of '05?

20 A Yes

21 MR. KAPLEN: '06

22 Q. Sorry, '06. I misspoke

23 A T mis-answered

24 Q. Okay

25 A. The internship was a year long

1 Moore

2 Q. From January of '06 to January of '07.

3 During that period, did you contribute
4 to her support? When I say you, I mean you
5 and your husband.

6 A. Yes.

7 Q. Approximately how much did you
8 contribute to her support during that period,
9 say by months, if you will?

10 A. I think about 600 a month, although I
11 don't recall exactly. At least 600 a month,
12 sometimes more, if special things were coming
13 up.

14 Q. What would special things be, for
15 example?

16 A. Special activities she wanted to
17 participate in.

18 Q. Such as?

19 A. Social activities. Clothing items
20 that she would need that she did not already
21 own.

22 Q. During that period from January of '06
23 to January of '07, did she return to
24 Danville?

25 A. I believe so, although I don't recall

1 Moore

2 exactly when.

3 Q. Was it more than once?

4 A. I don't recall. It would be perhaps
5 once or twice, but I don't remember the
6 specifics.

7 Q. On those one or two times, how long
8 would she stay in Danville? I'm now speaking
9 of the period actually of 2006.

10 A. It would not have been more than a
11 week, and I don't recall the specifics on
12 that.

13 Q. The internship she was on during that
14 year, was there a spring or summer break?

15 A. I believe there was a break. I don't
16 know. I don't recall when it was, and I
17 don't recall if she came home. I don't
18 remember.

19 Q. Other than attending classes and
20 whatever they had in the internship program,
21 did she have any other job?

22 A. Yes. She catered. She worked with a
23 catering company affiliated with the
24 hospital, and it was the banquet room located
25 right across the street from her room so it

1 Moore

2 was a very convenient job for her to have.

3 Q. Do you recall the name of the catering
4 service? Was it a hospital catering service?

5 A. Yes, it catered meetings and seminars
6 for physicians.

7 Q. At the Cornell branch?

8 A. Yes, I believe so.

9 Q. Did Sabina herself make any payment
10 toward her student loans?

11 A. Very few, if any, I imagine.

12 Q. So whatever was paid for the most part
13 would have been paid by you or by your
14 husband?

15 A. Yes.

16 Q. During that period, did Sabina ever
17 send you or your husband any money?

18 A. Good heavens, no.

19 Q. During that period, did Sabina ever
20 tell you anything about any of her social
21 friends?

22 A. Of course. Sometimes on a daily
23 basis.

24 Q. By phone?

25 A. Yes

1 Moore

2 nutrition?

3 A. Yes. She wanted to find a job. She
4 thought it would properly have something to
5 do with obstetrics or pediatrics. She had
6 not decided exactly what kind of job, but she
7 felt she wanted to work with children in some
8 way.

9 Q. In the nutritional field?

10 A. Yes.

11 Q. Did she ever advise you that she made
12 any application for any job?

13 A. She was offered two jobs while she was
14 an intern.

15 Q. What jobs were they?

16 A. Nutrition Department at two New York
17 hospitals. I don't recall the names.
18 Montefiore was one, I believe, and I forgot
19 the name of the other one.

20 I remember Montefiore because it was
21 an unusual name. She turned both jobs down
22 because she felt that she would be -- she
23 felt that the experience she gained as a
24 fellow would make her a much stronger
25 nutritionist.

1 Moore

2 Q. Those jobs were offered after her
3 internship?

4 A. Either after or during the last month
5 of the internship.

6 Q. With regard to the fellowship, was
7 that on a competitive basis in terms of
8 testing?

9 A. Yes. I don't think so much testing I
10 think as overall aptitude, work ethic, and it
11 relied -- winning the fellowship was quite a
12 feather in her cap.

13 Q. Did she apply for a fellowship
14 anywhere other than New York hospitals?

15 A. I don't believe so.

16 Q. As an intern, was she paid anything?

17 A. No.

18 Q. Did the fellowship include a stipend?

19 A. A small one. She got a free room.

20 which I think was worth perhaps \$200 a month.

21 Then a small, I think weekly stipend,

22 something nominal. The money she was to

23 receive as a fellow was of insignificant

size. I fully expected to continue to see

25 money.

1

2 C E R T I F I C A T E

3 I, CAROL LISTER, hereby certify that the
4 Deposition of MARY MICHELLE MOORE was held before
5 me on the 23rd day of August, 2007; that said
6 witness was duly sworn before the commencement of
7 her testimony; that the testimony was taken
8 stenographically by myself and then transcribed by
9 myself; that the party was represented by counsel
10 as appears herein;

11 That the within transcript is a true record
12 of the Deposition of said witness;

13 That I am not connected by blood or marriage
14 with any of the parties; that I am not interested
15 directly or indirectly in the outcome of this
16 matter; that I am not in the employ of any of the
17 counsel.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this 29 day of Sept , 2007.

20

Carol Lister

21

22

CAROL LISTER

23

24

25

EXHIBIT

“B”

CO. FILE DEPT. CLOCK NUMBER 1063
NYO 111113 813101 NZZ01 0000560676 1

NEW YORK-PRESBYTERIAN HOSPITAL
WEILL CORNELL MEDICAL CENTER
525 EAST 68 STREET
NEW YORK, NY 10021

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0
NY: 0

Earnings	rate	hours	this period	year to date
Regular			650.00	1,300.00
Fringe Ben			230.00	
Gross Pay			\$880.00	1,760.00

Deductions	Statutory		
	Federal Income Tax	40.08	80.16
	Social Security Tax	54.55	109.12
	Medicare Tax	12.76	25.52
	NY State Income Tax	15.84	31.68
	NY SUI/SDI Tax	2.60	5.20
	Other		
	Fringe Ben	230.00	460.00
	Net Pay	\$524.16	

Your federal taxable wages this period are \$880.00.

Earnings Statement

Period Ending: 03/03/2007
Pay Date: 03/08/2007



SABINA PARADI
116 GATETREE COURT
DANVILLE, CA 94526

Other Benefits and Information

Employee ID:

this period

total to date

EXHIBIT

“C”

56.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COPY

-----x
SABINA PARADI, a Judicially Declared
Incapacitated Person by the Guardians
of her Person and Property, BODO PARADY
and MARY MOORE,

Plaintiffs,

Civil Action No.

-against-

07 CIV 3640 (JCF)

MICHAEL R. PHILLIPS,

JDB

Defendant.

-----x
August 21, 2007

9:47 a.m.

Videotape Deposition of MICHAEL R. PHILLIPS,
taken by Plaintiff, pursuant to Notice, at the
offices of DeCaro & Kaplen, 20 Vesey Street, New
York, New York, before William Visconti, a
Shorthand Reporter and Notary Public within and
for the State of New York.

1

2 A P P E A R A N C E S:

3 DE CARO & KAPLEN

4 Attorneys for Plaintiffs

5 20 Vesey Street

6 New York, New York 10007

7

8 BY: MICHAEL V. KAPLEN, ESQ.

9

10

11 JAMES D. BUTLER, ESQ

12

13 Attorneys for Defendant

14

15 591 Summit Avenue

16

17 Jersey City, New Jersey 07306

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ALSO PRESENT:

SARAH ENGELMAN, Videographer

SUSAN PHILLIPS

3:40 1

3:40 2 themselves for the record.

3:44 3 MR. KAPLEN: Good morning, I'm
3:44 4 Michael Kaplen and I represent the Plaintiffs in
3:46 5 this case.

3:48 6 MR. BUTLER: James D. Butler on
3:50 7 behalf of the Defendant.

3:52 8 THE VIDEOGRAPHER: Will the court
3:58 9 reporter, Bill Visconti, of Merrill Legal
10 Services swear the witness.

11

12 MICHAEL R. PHILLIPS,
13 having been first duly sworn by the Notary Public
14 (William Visconti), was examined and testified as
15 follows:

:04 16 EXAMINATION CONDUCTED BY MR. KAPLEN:

:04 17 Q. Good morning.

:06 18 A. Good morning.

:10 19 Q. Again, my name is Michael Kaplen and
I represent the late Sabina Paradi and her family
12 20 in connection with this case. I'm going to be
16 21 asking you questions today concerning an incident
20 22 that happened on February 25th of 2007 and if you
22 23 don't understand my questions please tell me and
24 24 we will rephrase those questions for you. Okay?

51:28 1 MICHAEL R. PHILLIPS

51:30 2 A. No.

51:32 3 Q. Do you know if your vehicle was

51:36 4 photographed?

51:38 5 A. I don't know .

51:42 6 MR. KAPLEN: Mr. Butler, do you have

51:44 7 the color photographs of this incident of the

51:46 8 truck involved in this incident?

51:48 9 MR. BUTLER: The vehicle was

51:52 10 photographed. I sent you all that I have which

51:56 11 are photocopies. I have arranged and I

51:58 12 anticipate getting within the next day or two the

52:02 13 color photo and which you have been trying and I

52:04 14 finally succeeded but I have not seen it yet.

52:06 15 Q. Do you know if any videos were taken

52:06 16 of the vehicle subsequent to this accident?

52:08 17 A. I don't know.

52:08 18 MR. KAPLEN: Mr. Butler, were any

52:20 19 videos taken?

52:22 20 MR. BUTLER: Not to my knowledge.

52:22 21 Q. Now, on February 25th of 2007 can you

52:30 22 tell me by whom were you employed?

52:34 23 A. Niederlander Organization.

52:38 24 Q. What is your business or profession?

25 A. My profession is an assistant

:40 1 MICHAEL R. PHILLIPS

:44 2 carpenter. I'm a stagehand.

:44 3 Q. How long were you employed by them?

:46 4 A. I have been working in the business
:48 5 for over 32 and a half years.

:50 6 Q. At that time did you have any other
:52 7 employment in addition to your employment with
:52 8 Niederlander?

:54 9 A. I don't understand.

:56 10 Q. Were you employed anywhere else on
:56 11 February 25th?

:56 12 A. No.

:00 13 Q. Did you have any other independent
:00 14 work that you did in addition to working with
:00 15 Niederlander?

:02 16 A. No.

:06 17 Q. Did you have any independent business
:06 18 that you operated in addition to your employment
:08 19 with Niederlander?

:10 20 A. No.

:16 21 Q. Approximately what time did this
:18 22 incident happen with Sabina Paradi?

:24 23 A. Approximately 9:20 p.m. Sunday night.

:26 24 Q. Where were you coming from?

25 A. I was coming from work.

:26 1

MICHAEL R. PHILLIPS

:30 2

Q. Where was that?

:32 3

A. The Mintzcoff Theater.

:34 4

Q. Where was that located?

:34 5

A. Between 44th and 45th street and
Broadway.

:38 6

Q. What time did you get to work that
day?

9

A. I got to work that day at twelve
o'clock.

:42 10

Q. What time did your employment end
that day?

:52 13

A. 9:05.

:54 14

Q. During the course of that day did you
have any alcoholic beverages to drink?

:56 16

A. No.

:58 17

Q. During the course of that day were
you under any type of medication?

:04 19

A. I had Advil Sinus And Cold Medicine.

:06 20

Q. And that was for a common cold?

:08 21

A. Yes.

:12 22

Q. When was the last time that you took
this medication prior to 9:05 p.m.

:22 24

A. At lunchtime that day.

25

Q. After you left your place of

:52 1 MICHAEL R. PHILLIPS

:54 2 any reason?

:04 3 A. No.

:04 4 Q. Did you use the cell phone after the
:06 5 incident?

:06 6 A. Yes.

:08 7 Q. Who did you call afterwards?

:08 8 A. I called my wife.

:10 9 Q. Did you call anybody else?

:12 10 A. And I called the person that I was
:16 11 supposed to work for the following morning.

:16 12 Q. Where were you supposed to work the
:20 13 following morning?

:22 14 A. At the Imperial Theater.

:24 15 Q. You work for Niederlander but your
:26 16 place of employment would change from theater to
:26 17 theater on any given date?

:28 18 A. Yes.

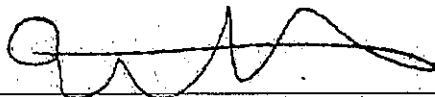
:30 19 Q. Was your truck equipped with a radio?

:34 20 A. No.

21 Q. Was it equipped with a CB radio or
:36 22 any kind?

:42 23 A. No.

:44 24 Q. Now, you were traveling prior to this
25 incident on West 37th Street?

1
2 C E R T I F I C A T E
34 STATE OF NEW YORK)
56 : ss.
78 COUNTY OF NEW YORK)
910 I, WILLIAM VISCONTI, a Shorthand
11 Reporter and Notary Public within and for the
12 State of New York, do hereby certify:
1314 That MICHAEL R. PHILLIPS, the witness
15 whose deposition is hereinbefore set forth, was
16 duly sworn by me and that such deposition is a
17 true record of the testimony given by the
18 witness.19 I further certify that I am not
20 related to any of the parties to this action by
21 blood or marriage, and that I am in no way
22 interested in the outcome of this matter.23 IN WITNESS WHEREOF, I have hereunto
24 set my hand this 11 day of Sept, 2007.
25

WILLIAM VISCONTI